

# Employee and Employer Rights and Responsibilities Under the Americans with Disabilities Act



The Americans with Disability Act prohibits employment discrimination against a qualified individual on the basis of disability. ADA applies to all employment agencies, local or state government employers or private employers with more than 15 employees. It is unlawful to discriminate in all employment practices, including:

- Advertisements
- Recruitment
- Application procedures
- Hiring
- Firing
- Job referrals
- Job assignments
- Promotions
- Pay
- Benefits
- Training
- Discipline

## Employee Rights and Responsibilities

The ADA requires employers provide an otherwise-qualified individual reasonable accommodations to be able to perform the essential functions of the job unless doing so would impose an "undue hardship." An employer cannot make up the cost of providing a reasonable accommodation by reducing the salary or wage of the disabled employee. A person with a disability is entitled to accommodations at any step of the employment process (application, hiring and promotion). It is the responsibility of the employee/applicant to inform the employer a reasonable accommodation is needed to apply for a job, or perform essential job functions. The decision to disclose a disability is entirely up to the applicant/employee, however, to receive accommodations, disabilities must be disclosed. Discrimination charges must be filed within 180 days of the occurrence.

## Employer Rights and Responsibilities

The employer is not required to provide a requested accommodation if it causes an undue hardship on the business. Undue hardships are decided on a case-by-case basis. If an accommodation qualifies as an undue hardship, the employer must find a different accommodation, or the employee must be offered the opportunity to pay for a portion of the accommodation. Examples of reasonable accommodations include:

- Providing or modifying equipment or devices
- Job restructuring
- Modified work schedules
- Reassignment to a vacant position
- Adjusting or modifying examinations, training materials or policies
- Providing readers and interpreters
- Workplace accessibility

An employer may ask someone to describe, or demonstrate, how he or she will perform the duties of the job. The ADA does not require employers to hire an applicant with a disability over other applicants.



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